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1. I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL DOCUMENT FILED WITH THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON.

06-CV-01118-CMP

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AUG 03 2006 DB

AT SEATTLE  
CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON, SEATTLE

OMNI INNOVATIONS, LLC, a  
Washington Limited Liability  
company,

Plaintiffs,

v.

EFINANCIAL, LLC, a Washington  
Limited Liability Company, d/b/a  
PRIMEPLAN, LLC, a Washington  
Limited Liability Company, also d/b/a  
TERMFINDER.COM,  
POLICYMATCH.COM; MICHAEL  
and KATHLEEN ROWELL, and  
their marital community; and JOHN  
DOES I-X,

Defendants,

CV 06-1118 MSP

COMPLAINT

PARTIES, JURISDICTION, VENUE

1. Plaintiff OMNI INNOVATIONS, LLC, (hereinafter "OMNI") is a Washington limited liability company duly licensed and registered with the State of Washington, with its principal place of business in Franklin County, Washington.
2. On information and belief, plaintiff alleges that Defendant EFINANCIAL, LLC, ("EFINANCIAL") is a corporation registered in Washington, with its principal

COMPLAINT FOR DAMAGES, PENALTIES, ETC. -I

MERKLE SIEGEL & FRIEDRICHSEN  
1325 Fourth Ave., Suite 540  
Seattle, WA 98101  
Phone: 206-424-8282  
Fax: 206-424-0217

ORIGINAL

places of business in the state of Washington, and does business under various names, including, but not limited to: Termfinder.com and Policymatch.com

3. On information and belief, MICHAEL ROWELL and KATHLEEN ROWELL, ("ROWELL") is an officer, director, and/or majority shareholder of EFINANCIAL, and as such controls its policies, activities, and practices, including those alleged herein on behalf of those defendants. All acts and practices undertaken by Rowell on behalf of corporate defendants are and were for the benefit of their marital community. Rowell resides in the State of Washington and transacts or has transacted business in the State of Washington and in the Western District of Washington.
4. Jurisdiction is proper pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1332 (diversity).

5. This Court has supplemental jurisdiction of state law claims pursuant to U.S.C. § 1367.

6. Venue is proper pursuant to 28 U.S.C. §1391.

7. From and after May 2005, Plaintiff OMNI provided and enabled computer access for multiple users to a computer server that provides access to the Internet.

8. The domain names served by Plaintiff include: anthonycentral.com, chiefmusician.net, chahome.com, itdidnotendright.com, jamnatom.com, jaycelia.com, celiajay.com, jaykaysplace.com, rcw19190020.com, and gordonworks.com (collectively the "Domains" and individually and generically a "Domain").

9. At all times material hereto, for the Domains and each of them, the information that all e-mail addresses at each Domain (the "Recipient Addresses") belong to Washington residents was and is available upon request from the registrant of each Domain, each registrant being a Washington resident and each Domain being registered with a Washington address.

10. During the time period of approximately August 2003 through May 2006, Plaintiff received at the Domains electronic-mail messages (collectively the "E-mails" or individually and generically as an "Email").
11. The E-mails, and each of them, were received by Plaintiff's servers serving the Domains, or at the Domains themselves, and/or on individual Plaintiffs' email accounts, and on their computers.
12. Each of the E-mails misrepresents or obscures information in identifying the point of origin or the transmission path thereof, and contains header information that is materially false or materially misleading. The misrepresentations include without limitation: IP address and host name information do not match, or are missing or false, in the "from" and "by" tokens in the Received header field; and dates and times of transmission are deleted or obscured.
13. On information and belief, Plaintiff alleges that some of the E-mails used the Internet domain name of a third party or third parties without permission of that third party or those third parties, and/or used false, or misleading information in registering the domains used to send the subject E-mails.
14. Defendant initiated the transmission of the E-mails, and each of them. In the alternative, Defendant conspired or otherwise acted in collusion with another or others or assisted another or others to transmit the E-mails, and each of them.
15. At all times material hereto, Defendants knew or had reason to know that the Recipient Addresses, and each of them, were and are held by a Washington resident.

FIRST CAUSE OF ACTION – CAN-SPAM ACT

15 U.S.C. §7701 et seq.

16. On the basis of the facts set forth hereinabove, Defendants initiated the transmission of the E-mails, and each of them, to a protected computer in violation of 15 U.S.C. §7704(a), causing damage to Plaintiff as the provider of the Internet access service

1 receiving each such E-mail in the amount of \$100 for each such E-mail, as provided  
2 in 15 U.S.C. §7706 (g) (3).

- 3 17. Defendants did willfully and knowingly so act in violation of the provisions of 15  
4 U.S.C. §7701 et seq.

5 **SECOND CAUSE OF ACTION – CEMA**

6 **RCW 19.190.010 - .070**

- 7 18. On the basis of the facts set forth hereinabove, Defendants initiated, conspired with  
8 another to initiate, or assisted the transmission of the E-mails, and each of them, in  
9 violation of RCW 19.190.020, causing damage to Plaintiff as the interactive computer  
10 service receiving each such E-mail in the amount of \$1,000 for each such E-mail, as  
11 provided in RCW 19.190.040 (2).

12 **THIRD CAUSE OF ACTION – CONSUMER PROTECTION ACT**

13 **Ch. 19.86 RCW**

- 14 19. On the basis of the facts set forth hereinabove, Defendants initiated the E-mails, and  
15 each of them, in violation of RCW 19.190.030 and Chapter 19.86 RCW, causing  
16 damage to Plaintiff as the interactive computer service receiving each such E-mail in  
17 the amount of \$1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

18  
19 **REQUEST FOR RELIEF**

20  
21 Plaintiff respectfully requests the following relief:

- 22  
23 1. Entry of a Judgment in favor of Plaintiff against the Defendants in the amount of \$1,100  
24 per unlawful E-mail, plus such other and further damages as may be proved at trial, plus

1 treble damages to the extent permitted by Chapter 19.86 RCW and to the extent permitted  
2 by 15 U.S.C. §7706 (g) (3) (C), plus prejudgment and post-judgment interest at the  
3 highest rate permitted by law, plus cost of suit and reasonable attorney fees pursuant to  
4 Chapter 19.86 RCW and 15 U.S.C. §7706 (g) (4);

5 2. Entry of a permanent injunction against the Defendants prohibiting the Defendants from  
6 sending or causing to be sent electronic mail messages of any kind or nature to e-mail  
7 addresses at the Domains, hereinabove.

8 3. Such other and further relief as the Court deems just and equitable in the premises.  
9

10 RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of July, 2006.

11  
12 MERKLE SIEGEL & FRIEDRICHSEN, P.C.

13 /s/ Robert J. Siegel

14 Robert J. Siegel, WSBA #17312

15 Attorney for Plaintiffs  
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